IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

DAVID GEORGE WISEMAN,	)	CASE NO. 5:02CV00064
Plaintiff	)	
	)	**AMENDED**
v.	)	**REPORT AND RECOMMENDATION**
JO ANNE B. BARNHART Commissioner of Social Security,	)	By: B. Waugh Crigler U. S. Magistrate Judge
Defendant	)	

The Commissioner having advised the court with an amended response to plaintiff's fee petition that she has no objection to an award of attorney fees to Rosalie Pemberton Fessier, Esq. in the amount of Five Thousand Nine Hundred Five Dollars ($5,905.00) under the Social Security Act, § 206(b), 42 U.S.C. § 406(b).[1] Therefore, it is hereby

RECOMMENDED

that an Order enter awarding counsel for plaintiff, Rosalie Pemberton Fessier, Esq. the sum of Five Thousand Nine Hundred Five Dollars ($5,905.00) in counsel fees under the Social Security Act § 206(b).

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[1]The undersigned's Report and Recommendation entered on September 14, 2005 inadvertently picked up on the Commissioner's reference to the Equal Access to Justice Act (EAJA) in the pleading she filed on September 9, 2005. This amended Report and Recommendation corrects that error.

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The Clerk is directed to immediately transmit the record in this case to the presiding District Judge. Both sides are reminded that pursuant to Rule 72(b) they are entitled to note objections, if any they may have, to this Report and Recommendation within (10) days hereof. Any adjudication of fact or conclusion of law rendered herein by the undersigned not specifically objected to within the period prescribed by law may become conclusive upon the parties. Failure to file specific objections pursuant to 28 U.S.C. § 636(b)(l)(C) as to factual recitations or findings as well as to the conclusions reached by the undersigned may be construed by any reviewing court as a waiver of such objection. The Clerk is directed to send a certified copy of this Report and Recommendation to all counsel of record.

ENTERED: _____
Judge

_____9/19/05_____
Date

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